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REMARKS

Claims 1-3, 5-11, 18 and 21-32 are currently pending in the subject application, and are presently under consideration. Applicant's representative acknowledges with appreciation allowance of claims 8-11. Favorable reconsideration of the subject patent application is respectfully requested in view of the comments herein.

I. Rejection of Claims 1-3, 5-7, 18, and 21-32 Under 35 U.S.C. §102(e)

Claims 1-3, 5-7, 18, and 21-32 stand rejected under 35 U.S.C. §102(e) as being anticipated by Sichling *et al.* (US Patent 4,379,226). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Sichling *et al.* does not teach or suggest the claimed invention.

For a prior art reference to anticipate, 35 U.S.C. §102 requires that "each and every element as set forth in the claim is found, either expressly or inherently, in a single prior art reference. In re Robertson, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950 (Fed. Cir. 1999) (quoting Verdegall Bros., Inc. v. Union Oil Co., 814 F.2d 628, 631, 2USPQ2d 1051, 1053 (Fed. Cir. 1987)).

The subject invention as claimed relates to sensing vibrations of a machine via an *obstruction* light modulator that varies *an amount of light* continuously received by the light receiving system. Such aspects of applicant's invention as recited in the subject claims are not disclosed or suggested by Sichling *et al.* Rather, Sichling *et al.* teaches a light modulating system that modulates a light beam based on varying a *frequency* of a thin blade, and a corresponding *oscillation frequency* change in the light beam – not a modulation.

(See Sichling *et al.* column 2, lines 60-65 "light beam is modulated ... with a *frequency* . See also column 4, lines 30-35 "the *oscillation frequency* is dependent on the length of the leaf spring".)

Independent claims 1, 18, 21, 22, 23, and 31 recite an *obstruction* light modulating system as to vary *an amount of light*. In accordance with applicant's claimed invention light directed at a light receiving system is *obstructed* as a function of vibration such that the *amount of light that passes through* to the light receiving system

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corresponds to degree of vibration. It is readily apparent that Sichling *et al.* does not disclose or suggest such aspects of applicant's claimed invention.

In view of the at least above comments, it is respectfully submitted that Sichling *et al.* does not anticipate or render obvious the subject invention as recited in; independent claims 1 (and claims 2, 3, 5, 6, 7 dependent thereupon), 18, 21, 22, 23 (and claims 24, 25, 26, 27, 28, 29, 30 dependant thereupon), 31 (and claim 32 dependant thereupon), and this rejection should be withdrawn.

II. Rejection of Claim 4 Under 35 U.S.C. §103(a)

Claim 4 is rejected under 35 U.S.C. §103(a) as being obvious over Sichling as applied to claim 1. It is respectfully submitted that claim 4 is no longer pending as it was cancelled in the prior reply of January 3, 2003, and this rejection should be withdrawn.

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III. CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063.

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicant's undersigned representative at the telephone number below.

Respectfully submitted,

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JUL 29 2003

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